IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.08.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

H.C.P.No.549 of 2006

Mani .. Petitioner

-vs-

1. State of Tamil Nadu
   rep. by its
   Secretary to Government
   Prohibition and Excise Department,
   Fort St.George, Chennai 600 009.

2. The District Magistrate and
   District Collector of Vellore District
   Vellore District, Vellore. .. Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the entire records relating to the petitioner's detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 04.05.2006 on the file of the second respondent herein made in proceedings C3.D.O.No.49 of 2006, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband namely Poovarasu @ Poovarasan before this Court and set the petitioner's husband, now detained at Central Prison, Vellore at liberty from detention.

For Petitioner : Mr.C.C.Chellappan
For Respondents : Mr.M.Babu Muthu Meeran,
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the wife of the detenu by name Poovarasu @ Poovarasan, who is detained as a "Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous activities of Boot-leggers, Drug

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Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14, 1982), by the impugned detention order dated 04.05.2006, challenges the same in this petition.

2. Heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor.

3. At the foremost, learned counsel for the petitioner, by drawing our attention to the order dated 18.04.2006, made in Crl.M.P.No.3270 of 2006 on the file of the Sessions Judge, Vellore, submitted that the respondents have predetermined to invoke Act 14, which is evident from the statement of the learned Public Prosecutor before the said Court, which vitiates the ultimate detention order passed by the detaining authority.

4. In the light of the said contention, we verified the order passed by the learned Sessions Judge in the bail application, namely Crl.M.P.No.3270 of 2006. At the time of hearing the matter, learned Public Prosecutor strongly objected to the grant of bail, stating that the detenu is an habitual offender and the police officials are taking effective steps to detain him under Goondas Act and if he is released on bail, he is likely to abscond. It is not in dispute that the learned Public Prosecutor made the said statement only on the basis of instructions furnished by the Sponsoring Authority.

5. In such circumstances, the learned counsel for the petitioner is right in contending that the authorities have predetermined to detain the detenu at any cost under Act 14, which vitiates the ultimate detention order. On this ground, the impugned detention order is liable to quashed.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with any other case or cause.

Sd/
Asst.Registrar

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/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government
   State of Tamil Nadu
   Prohibition and Excise Department,
   Fort St.George, Chennai 600 009.

2. The District Magistrate and
   District Collector of Vellore District
   Vellore District, Vellore.

3. The Superintendent
   Central Prison, Vellore.

4. The Public Prosecutor,
   High Court, Madras.

5. The Secretary,
   Law and Order Department,
   Fort St.George, Chennai-9.

1 cc To Mr.C.C.Chellappan, Advocate, SR.35122.

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MRD(CO)
RVL 29.08.2006

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